

TITUS BATTS,)
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 Plaintiff,)
)
 vs.) **ORDER**
)
 BETTY BROWN,)
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 Defendant.)
)

I. BACKGROUND

II. STANDARD OF REVIEW

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[or] fails to state a claim on which relief may be granted.” 28 U.S.C. § 1915(e)(2). In its frivolity review, this Court must determine whether the Complaint raises an indisputably meritless legal theory or is founded upon clearly baseless factual contentions, such as fantastic or delusional scenarios. Neitzke v. Williams, 490 U.S. 319, 327-28 (1989). A pro se complaint must be construed liberally. Haines v. Kerner, 404 U.S. 519, 520 (1972). However, the liberal construction requirement will not permit a district court to ignore a clear failure to allege facts in his Complaint which set forth a claim that is cognizable under federal law. Weller v. Dep’t of Soc. Servs., 901 F.2d 387 (4th Cir. 1990).

III. DISCUSSION

RLUIPA provides, in part: “No government shall impose a substantial burden on the religious exercise of a person residing in or confined to an institution . . . even if the burden results from a rule of general applicability, unless the government demonstrates that imposition of the burden on that person—(1) is in furtherance of a compelling governmental interest; and (2) is the least restrictive means of furthering that compelling governmental interest.” 42 U.S.C. § 2000cc-1(a). “RLUIPA thus protects institutionalized persons who are unable freely to attend to their religious needs and are therefore dependent on the government’s permission and accommodation for exercise of their religion.” Cutter v. Wilkinson, 544 U.S. 709, 721 (2005). Under RLUIPA, the plaintiff bears the initial burden of showing that the challenged policy substantially burdens his exercise of his religion. See 42 U.S.C. § 2000cc-2(b); Holt v. Hobbs, 135 S. Ct. 853, 862 (2015). The statute defines “religious exercise” as “any exercise of religion, whether or not compelled by, or central to, a system of religious belief.” 42 U.S.C. § 2000cc-5(7)(A); Smith v. Ozmint, 578 F.3d 246, 251 (4th Cir. 2009). A “‘substantial burden’ is one that puts substantial pressure on an adherent to modify his behavior and to violate his beliefs, [] or

one that forces a person to choose between following the precepts of her religion and forfeiting governmental benefits, on the one hand, and abandoning one of the precepts of her religion on the other hand.” Lovelace v. Lee, 472 F.3d 174, 187 (4th Cir. 2006) (quotations, citation, and alterations omitted).

Once the inmate makes a prima facie showing, the burden shifts to the government to prove that “the burden in question is the least restrictive means of furthering a compelling governmental interest.” Ozmin, 578 F.3d at 250. “‘RLUIPA adopts a . . . strict scrutiny’ standard.” Couch v. Jabe, 679 F.3d 197, 203 (4th Cir. 2012) (quoting and citing Lovelace, 472 F.3d at 198 n.8). Under RLUIPA, the court must give “due deference to the experience and expertise of prison and jail administrators in establishing necessary regulations and procedures to maintain good order, security and discipline, consistent with consideration of costs and limited resources.” Cutter, 544 U.S. at 723 (quotation omitted). “However, ‘a court should not rubber stamp or mechanically accept the judgments of prison administrators.’ . . . Rather, due deference will be afforded to those explanations that sufficiently ‘take[] into account any institutional need to maintain good order, security, and discipline.’” Couch, 679 F.3d at 201 (quoting Lovelace, 472 F.3d at 190).

The Court finds that Plaintiff’s RLUIPA claim is not clearly frivolous and therefore survives initial review.

IV. CONCLUSION


For the reasons stated herein, Plaintiff’s claim is not clearly frivolous and therefore survives initial review.

IT IS, THEREFORE, ORDERED that:

1. Plaintiff’s action survives initial review under 28 U.S.C. § 1915(e).

2. **IT IS FURTHER ORDERED THAT** the Clerk is directed to mail Plaintiff a summons form for Plaintiff to fill out and return for service of process on Defendant. Once the Court receives the summons form, the Clerk shall then direct the U.S. Marshal to effectuate service on Defendant. The Clerk is respectfully instructed to note on the docket when the form has been mailed to Plaintiff.

Signed: September 29, 2017


Frank D. Whitney
Chief United States District Judge 